

Part 1 - Rules Applicable to All Criminal Proceedings

RULE 500 - Appointed Counsel For Indigent Defendants

- (A) Contract Counsel – The court will endeavor to appoint to represent indigent defendants those counsel who have contracted with the County to provide such representation. In the event no such counsel are available to accept appointment, the court may appoint counsel from its appointment list.
- (B) Appointment List – The court shall maintain a list of counsel who desire to receive appointments to represent indigent parties in criminal matters. To be included on the list counsel may be required to submit a written application and to satisfy the judges of the court that counsel possess sufficient knowledge, education, experience, judgment and ability to defend persons accused of serious crimes. The juvenile court shall maintain a separate court appointment list. Nothing in this rule is intended to limit the discretion of the court to appoint counsel deemed appropriate by the court to represent an indigent defendant. The court retains full discretion to remove from the appointment list any counsel who fails to appear for court appearances, fails to follow these Rules or the California Rules of Court or fails to demonstrate the minimum level of proficiency in legal work deemed appropriate by judges of the court.

(01/01/99)

RULE 501 - Discovery

- (A) Whenever counsel for a defendant in a criminal action is informally requested by the People to provide any information or material listed in section 1054.3 of the Penal Code, counsel for such defendant shall inform the People within a reasonable time following the request whether or not he/she intends to honor the informal request. Such informal request shall be deemed ongoing. In the event that counsel for the defendant becomes aware of the existence of items listed in section 1054.3 of the Penal Code after such informal request, it shall be the duty of counsel for the defendant to inform the People of the existence of such items and to announce whether he/she intends to provide the same to the People without a formal court order.
- (B) Whenever the People in a criminal action are informally requested by counsel for a defendant to provide any information or material listed in section 1054.1 of the Penal Code, the People shall inform counsel for the defendant within a reasonable time following the request whether or not the People intend to honor the informal request. Such informal request shall also be deemed ongoing.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

- (C) Should either party to a criminal action fail to provide the information or material listed in sections 1054.1 or 1054.3 of the Penal Code after agreeing to an informal request to provide the same, the court may proceed with remedies and sanctions as provided in section 1054.5 of the Penal Code.

(01/01/99)

RULE 502 - Expert and Investigative Fees

Expert and investigative fees for indigent defendants shall not normally be paid or reimbursed unless prior approval for the expenditures thereof has been obtained by court order, which may be issued ex-parte and kept confidential until the conclusion of the case. A copy of the order authorizing the fee shall be attached to each claim form requesting payment for such fee. The claim shall disclose all amounts of fees previously requested pursuant to the attached order and indicate whether the request was granted or denied.

(01/01/99)

RULE 503 - Criminal Trials - Duty of Counsel

- (A) Witnesses – Each attorney is responsible for having witnesses available at the time their testimony is required. No trial will be delayed because of incorrect scheduling of witnesses unless counsel can show to the court that due diligence was exercised in obtaining the presence of the absent witness and that the witness's presence is necessary to secure a fair trial.
- (B) Interpreters – Counsel planning to call a witness who needs the assistance of an interpreter is required to make all necessary arrangements prior to trial for the presence of an appropriate interpreter at the time the witness is to be called. If given adequate advance notice, the court will assist criminal defendants in arranging for the presence of needed interpreters.
- (C) Recordings – Transcripts – Prior to the commencement of any trial, a typed transcription of any sound recording which counsel expects to offer into evidence shall be prepared at the direction and expense of the proponent of the evidence and shall be certified by the preparer as containing a true transcription of such recorded statement. The proponent of such recording shall prepare a sufficient number of copies of such transcript for each of the following persons to have a copy: each juror and alternate juror, the judge, each opposing party, each opposing counsel, the court reporter, and the court clerk.
- (D) Presence After Recesses, Adjournments – It is the responsibility of trial counsel to be present in the courtroom with their respective clients and with

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

the witness who is testifying, or the next witness if the last has concluded his/her testimony, after each recess or adjournment.

(01/01/99)

RULE 504 - Continuances

All criminal cases set for trial will proceed to trial on the date scheduled in the absence of good cause. No continuances will be granted unless the court is presented proof of good cause for a continuance in accordance with Penal Code section 1050. A stipulation of counsel to a trial continuance does not constitute good cause.

(01/01/99)

RULE 505 - Applications For Modification of Sentence or Terms of Probation

- (A) Motions for modifications of sentence or probation shall be in writing and directed to the sentencing judge.
- (B) Notice of such motion shall be given to the People at least fifteen (15) days prior to any hearing date for such motion. Moving party must also deliver a copy of the motion to the probation department at least fifteen (15) days prior to the date for hearing. In emergency situations, upon a showing of good cause, notice may be shortened by ex-parte request, but the motion for modification will not be heard ex-parte.

(01/01/99)

RULE 506 - Renewal of Motions

Motions decided prior to trial shall not be renewed unless based upon new facts or law which could not, with due diligence, have been known at the time of the original motion. Any renewed motion shall be supported by a declaration showing such diligence and setting forth the new facts and/or law.

(01/01/99)

(RULES 507 - 519 Reserved)

Part 2 - Rules Applicable to Felony Cases

RULE 520 - Applicability of Part 2

The Rules in this Part of Chapter 5 are applicable to all criminal cases in which the charging document includes a felony charge and all misdemeanor cases which have been joined or consolidated with a felony for trial.

(01/01/99)

RULE 521 - Proceedings Through Preliminary Examination

- (A) Early Disposition – At the time of initial arraignment on a felony matter, a defendant may choose to attempt settlement of the case prior to the setting of a preliminary examination. Upon the defendant providing an appropriate waiver of time, the arraignment court will set the matter into a designated department for an early disposition hearing. If the matter is resolved at that hearing by way of a plea, sentencing will take place in a department to be assigned. If the matter is not resolved and a preliminary hearing is not waived, the case will be calendared in the appropriate department for preliminary examination.
- (B) Setting Case for Post Preliminary Hearing Arraignment – Upon conclusion of the preliminary examination, for those persons held to answer, the matter will be certified to a designated department for arraignment.
- (C) Setting Case for Sentencing – Upon entry of a plea of guilty or nolo contendere to a felony charge, the case will be referred to the Probation Office for a pre-sentence investigation and report and the court shall appoint a time for pronouncement of judgment and sentencing in the designated department. However, if the parties stipulate to a sentence and the court permits, upon entry of appropriate waivers, the court may pronounce sentence immediately. If the defendant is committed to prison the court will order the Probation Office to prepare a report pursuant to Penal Code section 1203.
- (D) Competency Certification – A court which has suspended criminal proceedings pursuant to Penal Code section 1368 shall appoint a psychiatrist or licensed psychologist or two such professionals in accordance with Penal Code section 1369(a) and refer the matter to the designated department for further hearing.
(01/01/99)

RULE 522 - Post Preliminary Examination Arraignment

- (A) Appearance by Counsel – Unless relieved of the obligation by court order, counsel representing a defendant when the defendant is held to answer shall appear at the date and time of the defendant's post-preliminary hearing arraignment.
- (B) Future Appearance Dates – Defense counsel intending to set trial dates shall appear 15 minutes prior to calendar call and confer with the court clerk of the department to which the case has been assigned for the purpose of arranging tentative dates for trial and other appearances. In any case in which the

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

District Attorney wishes to have a voice in the setting of dates for further appearances, the District Attorney shall also appear for the pre-calendar conference with the clerk. Actual dates for further appearances will be set by the judge in open court.

(C) Mandatory Appearances – In each felony case, unless otherwise ordered by the court, dates for the following mandatory appearances shall be set:

- (1) Settlement conference.
- (2) Trial readiness hearing.
- (3) Trial confirmation hearing.
- (4) Trial.

(D) Bail/Own Recognizance Release – Unless otherwise ordered by the court, a defendant's bail or own recognizance release status shall remain as previously ordered. Conditions of own recognizance release imposed by previous order shall remain in effect unless changed by court order.

(01/01/99)

RULE 523 - Presence of Trial Counsel and Defendant Mandatory

The presence of defendant and trial counsel (or in the case of the District Attorney, a supervisor of trial counsel or other deputy who is familiar with the case and possessed of full authority in the case) is required at each mandatory appearance unless otherwise authorized by the court. At any mandatory appearance it is not acceptable for defense counsel to send in his/her place a partner, associate or other lawyer who will not actually be trial counsel. Telephone appearances may be made by counsel in exceptional circumstances only by prior approval of the court.

(01/01/99)

RULE 524 - Felony Settlement Conference

A settlement conference shall be scheduled in every felony case. Except where prohibited by Penal Code section 1192.7 or other statute, counsel for both sides shall be prepared to discuss the issues of the case and negotiate its possible disposition without trial at the settlement conference. In cases where plea negotiation is arguably prohibited by statute, counsel shall be prepared to discuss whether any statutory exception to the prohibition is present.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

Counsel shall also be prepared to discuss and endeavor to enter into agreements and stipulations, which may eliminate or determine issues not in dispute and thus shorten the trial.

(01/01/99)

RULE 525 - Felony Trial Readiness Hearings

A trial readiness hearing shall be scheduled in every felony case and shall be calendared at least two (2) weeks prior to the trial date. It shall be the duty of all counsel to prepare their cases so that by the trial readiness hearing they are able to represent that (1) all non-in-limine pre-trial motions have been heard, (2) all witnesses are subpoenaed and available, (3) trial counsel is prepared for trial and has no conflicts, and (4) the defendant knows of no reason why the case should not go to trial as scheduled. Additionally, trial counsel shall notify the court of any non-perfunctory in-limine motions to be brought at trial and provide a time estimate for such motions.

(01/01/99)

RULE 526 - Felony Trial Confirmation Hearings

At the trial confirmation hearing counsel will be asked if he/she can represent that there is no reason why the matter will not proceed to trial as scheduled. Opposing counsel shall be served with a copy of any transcript of any sound recording which recording counsel expects to play and/or offer into evidence. (See Rule 110.) Counsel shall also be prepared to inform the court as to the following matters:

- (1) The nature and duration of any motions in limine.
- (2) The anticipated length of the trial.
- (3) Any anticipated problems with scheduling of witnesses.
- (4) Any motions to amend the information.
- (5) Whether any witnesses need an interpreter.
- (6) Any other matters which may adversely affect the orderly presentation of the trial. It is the affirmative duty of trial counsel to bring to the court's attention any matters discussed above which may cause delays in the conduct of the trial.

(01/01/99)

RULE 527 - Felony Pre-Trial Motions

- (A) Pre-trial motions other than motions in-limine should be orally noticed and scheduled at the post preliminary examination arraignment. This oral notice

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

is supplemental to any notice required by statute or California Rules of Court. If not orally noticed at arraignment, pre-trial motions may be scheduled by written noticed motion provided:

- (1) Any motion shall be noticed and filed in sufficient time to be heard no later than the trial readiness hearing. Pre-trial motions will not be set or heard after the readiness hearing date except upon an affirmative showing of good cause in a written declaration. The court may impose sanctions against any attorney unreasonably delaying the bringing of any pre-trial motion including Penal Code sections 995 and 1538.5 motions and motions of a constitutional dimension.
 - (2) If a motion requires the taking of evidence, counsel shall confer with the court clerk of the department in which the case is calendared to obtain possible hearing dates and times prior to setting the motion.
- (B) All motions shall be in writing and shall be accompanied by points and authorities in support thereof and proof of service on opposing counsel.
- (C) All motions and responsive pleadings thereto shall have prominently displayed on the face of the moving document the date and time of the hearing and a time estimate for the duration of the hearing.
- (D) All documents submitted for filing shall include the attorney's state bar number.
- (E) All documents shall be typewritten or mechanically or electronically printed in a manner, which produces clear and permanent copies equally legible as letter quality printers. Pro-per defendants may file handwritten documents only with prior leave of the court.
- (F) All documents shall be hole punched in accordance with directions from the clerk.
- (G) No memorandum of points and authorities shall be in excess of 10 pages, excluding exhibits, without prior leave of court.
- (H) Penal Code section 995 motions:
A motion to dismiss pursuant to Penal Code section 995 shall set forth with particularity the claimed deficiencies or irregularities in the proceedings. Moving papers and responses thereto, when making reference to the evidence, shall contain page and line citations to the reporter's transcript.
- (I) Penal Code section 1538.5 motions:

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

A motion to suppress evidence pursuant to Penal Code section 1538.5 shall specifically describe and list the evidence which is the subject of the motion to suppress, shall specifically state the theory or theories which shall be relied upon for the suppression of evidence, and shall cite the specific authority or authorities which support the motion. Moving and responding parties shall state in their pleadings whether they are (a) willing to stipulate that the preliminary hearing transcript may be considered as evidence at the hearing on the motion and/or, (b) whether witnesses are proposed to be called. (01/01/99)

RULE 528 - Felony Sentencing

- (A) Letters – Written statements of defendants and letters of reference or recommendation on behalf of defendants are to be submitted to the probation officer, not to the court. Any such items must be submitted to the probation officer no later than 14 calendar days following conviction in order to be considered by the probation officer or court. Written communications submitted ex-parte to the court by or on behalf of defendants or victims will not be accepted. No more than 5 letters of reference on behalf of a defendant are to be attached to a probation report. Where in excess of 5 such letters of reference are timely received by the probation officer, they shall be summarized in a paragraph in the probation report. Letters of reference or recommendation presented for the first time at the sentencing hearing will not be accepted.
- (B) Notice of Intention to Present Evidence – A party seeking consideration of facts not set forth in the probation report for purposes of aggravation, mitigation or granting or denying probation shall first comply with all the notice requirements set forth in Rule 437 of the California Rules of Court. The facts contained in the probation report's "Summary of Offense" shall be considered to be the operative facts surrounding the offense absent any notice of intention to dispute facts. Any notice of intention to present evidence shall be considered a motion and shall comply with subsections B through G of Rule 527 of these rules.

(01/01/99)

(RULE 529 Reserved)

Part 3 - Rules Applicable to Misdemeanor Cases

RULE 530 - Misdemeanor Case Processing

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

The Kings County Courts shall endeavor to dispose of misdemeanor cases as follows: 90% within 30 days after the defendant's first court appearance; 98% within 90 days after the defendant's first court appearance; and 100% within 120 days after the defendant's first court appearance.

(01/01/99)

RULE 531 - Misdemeanor Arraignment

At arraignment the court will set appearance dates for one or more of the following:

- (1) A pre-trial hearing.
- (2) A motion hearing.
- (3) A trial readiness hearing.
- (4) A trial confirmation hearing.
- (5) Trial.

(01/01/99)

RULE 532 - Misdemeanor Pre-Trial Hearing

At the pre-trial hearing the court will hear all pretrial motions and conduct settlement negotiations. If a trial date was not previously set, one will be assigned. If no disposition is reached at the pre-trial hearing, the court may set a trial readiness hearing two weeks prior to the trial date.

(01/01/99)

RULE 533 - Misdemeanor Trial Readiness Hearing

The purpose of a trial readiness hearing is to verify that the parties will be ready on the trial date and that jury summons should issue. The court may combine the trial readiness hearing with the pre-trial hearing. It is the duty of counsel to determine by the trial readiness hearing that all necessary witnesses will be available on the trial date and that there are no impediments to trial on the assigned trial date.

Absent exceptional circumstances the court will not accept negotiated plea agreements after the trial readiness hearing.

(01/01/99)

RULE 534 - Misdemeanor Trial Confirmation Hearing

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

A trial confirmation hearing will normally be scheduled one or two court days prior to trial. It is the duty of counsel at a trial confirmation hearing to apprise the court of any matters which might interfere with the expeditious trial of the case on the date assigned. (01/01/99)

RULE 535 - Misdemeanor Penal Code Section 1538.5 Motions

A motion to suppress evidence pursuant to Penal Code section 1538.5 shall specifically describe and list the evidence which is the subject of the motion to suppress, shall specifically state the theory or theories which shall be relied upon for the suppression of evidence, and shall cite the specific authority or authorities which support the motion. (01/01/99)

(RULES 536 - 539 Reserved)

Part 4- -Rules Applicable to Infractions

RULE 540 - Available Procedures for Persons Charged with Infractions

Persons charged with infractions only (i.e. these procedures are not available to those charged jointly with infractions and misdemeanors or felonies), may proceed as follows:

- (A) Persons desiring not to contest the citation, ticket, or complaint may plead guilty or no contest and pay a fine. These transactions may be handled through the mail, through an automated telephone system, or by going to the front window at the nearest Municipal Court location.
- (B) Persons desiring to contest the citation, ticket, or complaint may plead not guilty and request a court trial. Three types of trial procedures are possible, subject to the discretion of the court:
 - (1) A person desiring to personally appear before a judge and to confront and cross-examine witnesses in court may request a regular court trial.
 - (2) A person desiring to personally appear before a judge, but who is willing to waive certain Constitutional rights (including the right to confront and cross-examine witnesses) and permit the judge to consider as evidence the notice to appear (ticket) may request to proceed pursuant to Vehicle Code section 40901. (See Rule 541.)
 - (3) A person willing to waive certain Constitutional rights including the right to be personally present before the judge at trial may request to

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

proceed by trial by written declaration pursuant to Vehicle Code section 40902. (See Rule 542.)

(01/01/99)

RULE 541 - Trial Pursuant to Vehicle Code Section 40901

- (A) In the discretion of the court, the court may conduct the trial of a defendant charged with an infraction which is a violation of the Vehicle Code or of a local ordinance adopted pursuant to the Vehicle Code in the following manner, pursuant to Vehicle Code section 40901.
- (B) A defendant may appear at the Traffic Division window to request an appearance in court. The defendant is given the Counter Arraignment of Contested Infractions form (locally prepared), which advises the defendant of procedures and rights. If the defendant elects to sign the declaration on the form, and post bail in advance, the matter will be scheduled by a court clerk for a court trial.
- (C) If the defendant wishes to appear in court, on or before the citation appearance date, and knowingly waives all rights to retain counsel at his/her own expense, and to confront, cross-examine, and subpoena witnesses on his/her behalf, the matter may directly proceed before the judge hearing arraignments.
- (D) The court may accept testimony or other relevant evidence introduced in the form of a notice to appear issued pursuant to Vehicle Code section 40500 or any business record or receipt.

(01/01/99)

RULE 542 - Trial by Declaration -- (Vehicle Code Section 40902)

- (A) Pursuant to California Vehicle Code section 40902, defendants charged with Vehicle Code infractions or violations of local ordinances adopted pursuant to the Vehicle Code may waive their right to personally appear for trial, and may request trial by written declaration without a personal appearance. Trial by declaration is available to any defendant who wishes to contest the citation and who requests trial by declaration, either by mail or in person, prior to the date set for his or her initial appearance in court. Trial by declaration is not available if defendant has been notified that a personal appearance is mandatory.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

- (B) The clerk shall notify eligible defendants of the availability of this procedure. If defendant elects this procedure the clerk shall mail a declaration form to the defendant and to the issuing officer. Defendants electing this procedure are responsible for keeping the clerk informed of their current address.
- (C) Defendants who have requested trial by declaration must file the declaration, under penalty of perjury, and post the required bail, on or before the date assigned by the clerk on the declaration form provided to the defendant. The clerk is authorized to assign a date, not to exceed 10 days after the date the request for trial by declaration is filed, to permit the defendant time to file the written declaration and post the required bail.
- (D) The court may accept testimony and other relevant evidence introduced in the form of a notice to appear issued pursuant to Vehicle Code section 40500, business records or receipts, a sworn declaration of the issuing officer or written statements or letters signed by the defendant or defendant's witnesses.
- (E) If the defendant is dissatisfied with the decision of the court, the defendant shall have a right to a trial de novo. A request for a trial de novo shall be made by the defendant personally at the office of the clerk, or in writing received by the clerk, no later than 10 days after the date the written notice of decision is mailed by the clerk to the defendant.

(01/01/99)

(RULES 543 - 599 Reserved)